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STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Letter dated 31 January 1995 from the Chargé d'affairs a.i., of the Republic of Croatia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I would like to transmit to you the letter of the Permanent Representative of the Republic of Croatia to the United Nations in New York, H.E. Dr. Mario Nobilo, addressed to the Secretary-General of the United Nations in his capacity as the depositary of multilateral treaties.

As the document E/CN.4/1995/80, referred to in the said letter, has been distributed to the Commission on Human Rights, I have the honour to ask you to circulate the position of the Government of the Republic of Croatia as an official document under item 17 of the agenda of the fifty-first session of the Commission on Human Rights.

(Signed): Neven Madey

New York, 30 January 1995

I would like to present to Your Excellency, in your capacity as the depositary of multilateral treaties, the position of my Government concerning the document E/CN.4/1995/80 of 28 November 1994 (Status of the International Covenants on Human Rights).

The Annex to this document deals with the "Status of succession, accession or ratification of human rights treaties by States successors to the former Yugoslavia, the former Soviet Union and the former Czechoslovakia".

On the list of States successors to the former Yugoslavia, parties to human rights treaties, the dates of the receipt of the instruments of ratification of the former Socialist Federal Republic of Yugoslavia (SFRY) have been indicated as the date of receipt of the relevant instruments for the Federal Republic of Yugoslavia (Serbia and Montenengro), under the name "Yugoslavia".

In my letter addressed to Your Excellency, dated 16 February 1994 (S/1994/198 of 19 February 1994), the Croatian Government presented its position concerning the question of succession of the Federal Republic of Yugoslavia (Serbia and Montenegro) relating to those treaties.

The Republic of Croatia strongly objects to the claim of the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue the personality of the former SFRY, including all its internal, international, legal and political aspects.

In accordance with the relevant resolutions of the Security Council (757,777) and the General Assembly (471) concerning this issue, the Opinions of the Arbitration Commission of the UN/EC Conference on the Former Yugoslavia, particularly Opinions No. 8, 10 and 11, and the general rules of international law on the succession of States, the Federal Republic of Yugoslavia (Serbia and Montenegro) is not - and cannot be - considered the sole and automatic successor to the former SFRY.

My Government wishes to stress that the United Nations and other organizations that belong to the United Nations system have confirmed the aforementioned legal status of the Federal Republic of Yugoslavia (Serbia and Montenegro) relating to treaties and to membership in international organizations.

In this sense, the representatives of the Federal Republic of Yugoslavia (Serbia and Montenegro) have been prevented from participating in international meetings and conferences of States parties to multilateral treaties in respect of which the Secretary-General acts as depositary (i.e., CCW, CRC, CEDAW, CERD, ICCPR, etc.) as the Federal Republic of Yugoslavia (Serbia and Montenegro) had not acted according to international rules on the succession of States. Namely, the Federal Republic of Yugoslavia (Serbia and Montenegro) has repeatedly tried to participate in international forums as a State party without having notified its succession. In such a

way, the Federal Republic of Yugoslavia (Serbia and Montenegro) has tried to create a precedent by which it would later seek to prove that it is the sole and automatic successor to the former SFRY.

Other international organizations depositaries of multilateral treaties (i.e., WHO, Council of Europe, Customs Co-operation Council, etc.) as well as governments depositaries of multilateral treaties (i.e. NPT) have also acted in accordance with the above-mentioned United Nations decisions and international practice.

Numerous States have also accepted such general practice. In their relations with the Federal Republic of Yugoslavia (Serbia and Montenegro) they do not accept the automatic application of bilateral treaties concluded with the former SFRY and have terminated their application.

Having all this in mind, I would like to draw your attention to the fact that document E/CN.4/1995/80 is in contravention with current United Nations practice concerning the status of the Federal Republic of Yugoslavia (Serbia and Montenegro) in relation to treaties of the predecessor State. Without any legal basis it is - for the first time - listing the Federal Republic of Yugoslavia (Serbia and Montenegro) as an automatic successor to treaties of the former SFRY.

Therefore, in accordance with the aforementioned facts and argumentation, I would kindly request Your Excellency to circulate the appropriate correction of United Nations document E/CN.4/1995/80 of 28 November 1994, entitled "Status of the International Covenants on Human Rights".

Should the Federal Republic of Yugoslavia (Serbia and Montenegro) express its intention to be considered a party, by virtue of succession, to the multilateral treaties of the predecessor State with effect as of 27 April 1992, the date on which the Federal Republic of Yugoslavia (Serbia and Montenegro) as a new State assumed responsibility for its international relations, the Republic of Croatia would take note of that notification of succession.

I would kindly request your assistance in distributing the present letter as a document of the Economic and Social Council, under the item 5 (d) of the provisional agenda for the 1995 session (E/1995/1), and of the fiftieth session of the General Assembly, under the agenda item entitled "Human rights issues, implementation of human rights instruments".

(Signed): Ambassador Dr. Mario Nobilo

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